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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/620,550	07/16/2003	Bart ter Braak	09424.0190US01	8445
23552 7590 05/11/2007 MERCHANT & GOULD PC P.O. BOX 2903 MINNEAPOLIS, MN 55402-0903			EXAMINER FERGUSON, MICHAEL P	
			ART UNIT 3679	PAPER NUMBER
			MAIL DATE 05/11/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/620,550	Applicant(s) TER BRAAK, BART	
	Examiner Michael P. Ferguson	Art Unit 3679	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 February 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 3-17 and 20-25 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 3-17 and 20-25 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 16 July 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Drawings

1. The drawings are objected to because of the following:

The cross-hatching of element 3 in Figures 7 and 8 is improper based on the material of such element.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

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A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 3-12, 14, 17 and 20-25 are rejected under 35 U.S.C. 102(b) as being anticipated by Jones (US 6,182,739).

As to claim 17, Jones discloses a rail system, comprising:

a rail **19** to be suspended from a mounting surface **33**, wherein the rail is configured to suspend a curtain **27** therefrom;

a safety connection coupled to the curtain rail, the safety connection comprising a first **23** and a second **15** retaining element, wherein after mounting, one of the retaining elements is coupled to the rail to be suspended and the other of the retaining elements is connected to the mounting surface, the first and second retaining elements being detachably connected to each other such that, under the influence of a tensile force applied to the retaining elements, the retaining elements disconnect, wherein the second retaining element integrally forms a resilient lip **17**, and wherein the first and second retaining elements are configured to cooperate via the integrally formed resilient lip to effect the detachable coupling of the retaining elements (Figures 1-3).

As to claims 3 and 4, Jones discloses a system wherein the resilient lip **17**, after mounting, extends, on average, in a direction including an angle with a vertical plane in the range of approximately 15- 30 degrees (Figure 3).

Applicant is reminded that orientation of an object is based upon the angle at which it is viewed.

As to claim 5, Jones discloses a system wherein the resilient lip **17** is manufactured from plastic (Figure 3).

As to claim 6, Jones discloses a system wherein a front end of the resilient lip **17** of the second retaining element **15** touches a slide-off surface **25** of the first retaining element **23** (Figure 2).

As to claim 7, Jones discloses a system wherein the front lip end **17** comprises a sliding surface which is substantially parallel to part of the slide-off surface **25** of the first retaining element **23** (Figure 2).

As to claims 8 and 9, Jones discloses a system wherein the slide-off surface **25** of the first retaining element **23** after mounting, viewed in a vertical cross section, includes an angle with a vertical plane in the range of 60-70 degrees (Figure 3).

Applicant is reminded that orientation of an object is based upon the angle at which it is viewed.

As to claim 10, Jones discloses a system wherein the first retaining element **23**, after mounting, extends partly through a substantially vertical passage of the second retaining element **14** (Figure 2).

As to claim 11, Jones discloses a system wherein the first retaining element **23** is provided with a widened head **25** located, after mounting, above the passage, which head touches the front end of the resilient lip **17** of the second retaining element **15** (Figure 2).

As to claim 12, Jones discloses a system wherein the widened head **25** of the first retaining element **23** is provided with the slide-off surface (Figure 2).

As to claim 14, Jones discloses a system wherein the first **23** and second **15** retaining elements are each of rotation-symmetrical design relative to an axis of symmetry, which is vertical, after mounting (Figure 1).

As to claim 20, Jones discloses a system wherein the integrally formed resilient lip **17** comprises a radially outward extending resilient lip (Figure 2).

As to claim 21, Jones discloses a system wherein the second retaining element **15** comprises a monolithic element defining the resilient lip **17** (Figure 1).

As to claim 22, Jones discloses a system wherein the second retaining element **15** comprises a monolithic element defining the resilient lip **17** (Figure 1).

As to claim 23, Jones discloses a system wherein the resilient lip **17** extends longitudinally beyond the first retaining element **23** and radially outward (Figure 2).

As to claim 24, Jones discloses a system wherein the rail **19** is a curtain rail (rail **19** receives curtain **27**; Figure 1).

As to claim 25, Jones discloses a system wherein the rail **19** defines a lower rail groove configured to receive curtain runners **77** (Figures 4 and 5).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 15 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jones.

As to claims 15 and 16, Jones discloses a system wherein the retaining element **15** connected to the mounting surface **33** is mounted in a tube **33** (Figure 3); Jones is silent as to any structural or functional significance as to the inside diameter of the tube.

Jones fails to disclose a system wherein the tube has an inside diameter in the range of 10- 15 mm.

The applicant is reminded that a change in the size of a prior art device, wherein there is no structural or functional significance as to the change in size, is a design consideration within the skill of the art. In re Rose, 220 F.2d 459, 105 USPQ 237 (CCPA 1955). Accordingly, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify a system as disclosed by Jones wherein the tube has an inside diameter in the range of 10-15 mm as Jones does not disclose any functional significance as to the inside diameter of the tube, as such change in size is a design consideration within the skill of the art.

6. Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Jones in view of Froment et al. (US 5,791,382).

As to claim 13, Jones fails to disclose a system wherein the second retaining element comprises a plurality of resilient lips extending obliquely towards each other for forming a constriction of the passage of the second retaining element.

Froment et al. teach a system wherein a second retaining element **11** comprises a plurality of resilient lips **13** extending obliquely towards each other for forming a constriction of the passage of the second retaining element for receiving a head **12** of a first retaining element; the plurality of lips enabling the second retaining element to

resiliently expand in order receive the head of the first retaining element, providing for ease of assembly and durability of the element (Figure 2). Accordingly, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the system disclosed by Jones to have a second retaining element comprising a plurality of lips as taught by Froment et al. in order to enable the second retaining element to resiliently expand in order receive the head of the first retaining element, providing for ease of assembly and durability of the element.

Response to Arguments

7. Applicant's arguments with respect to claims 3-17 and 20-25 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

The prior art made of record and not relied upon is considered pertinent to the applicant's disclosure. The following patents show the state of the art with respect to rail connectors:

Baker, Sr. (US 3,916,477) and Judkins (US 5,765,260) are cited for pertaining to connectors comprising snap-fit retaining elements.

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. The newly added limitations of the rail being suspended "from a mounting surface, wherein the rail is configured to suspend a curtain therefrom" in claim 17 (lines 2-3) necessitated the new grounds of rejection. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael P. Ferguson whose telephone number is (571)272-7081. The examiner can normally be reached on M-F (8:00-5:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel P. Stodola can be reached on (571)272-7087. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


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